

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**Mail Stop PATENT APPLICATION**

Commissioner for Patents  
U.S. Patent and Trademark Office  
2011 South Clark Place  
Customer Window  
Crystal Plaza Two, Lobby, Room 1B03  
Arlington, VA 22202

PRIOR APPLICATION: Examiner: Patrick J. Lee  
Group Art Unit: 2878

**DIVISIONAL PATENT APPLICATION TRANSMITTAL  
UNDER 37 C.F.R. § 1.53(b)**



This is a request for filing a patent application under 37 C.F.R. § 1.53(b).

1. This application is a [ ] Continuation [X] Divisional [ ] Continuation-in-Part patent application under 37 C.F.R. § 1.53(b), of pending prior application No. 10/089,801, filed on April 4, 2002, of:

Inventor(s): Masashi SANO, et al.

For: PHOTO-INTERRUPTER AND  
SEMICONDUCTOR DEVICE USING THE SAME

2. The papers enclosed are as follows:

27 Page(s) of specification including:  
04 Page(s) of claims  
01 Page of abstract  
00 Title Page  
9 Sheet(s) of formal drawings containing 14 Figures  
— Other: \_\_\_\_\_

3. Amendments

For continuation and divisional applications:

- ☒ [X] A preliminary amendment is enclosed.
- ☒ [X] Original claims 1-5 in the enclosed copy of prior Application No. 10/089,801 are cancelled by the preliminary amendment, they are not included in the calculation of the filing fee.

4. Oath or Declaration

For continuation or divisional applications:

- ☐ [ ] A newly executed (original or copy) oath or declaration is enclosed.
- ☒ [X] A copy of an oath or declaration from a prior application is enclosed under 37 C.F.R. § 1.63(d). The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied is considered as part of the disclosure of the accompanying application and is hereby incorporated by reference therein.
- ☐ [ ] A signed statement deleting inventor(s) named in the prior application is enclosed.

For continuation-in-part applications:

- ☐ [ ] A newly executed (original or copy) oath or declaration is enclosed.
- ☐ [ ] An oath or declaration is not enclosed. This application is being filed under 37 C.F.R. § 1.53(f). Applicant(s) await notification from the Patent and Trademark Office of the time set for filing the declaration and paying the filing fees.

5. Relate Back - 35 U.S.C. § 120

- ☒ [X] The specification has been amended by inserting before the first line the sentence:  
  
“This application is a Divisional of copending Application No. 10/089,801 filed on April 4, 2002, which is the National Phase of PCT International Application No. PCT/JP00/06915 filed in Japan on October 4, 2000, which in turn claims the benefits of Japanese Application Nos. JP/11-287,390 filed in Japan on October 7, 1999, and JP/11-326,757 filed in Japan on November 17, 1999, all four of which are hereby incorporated by reference.”

6. Priority - foreign applications under 35 U.S.C. § 119(a)-(d) or § 365(b) or PCT international applications under 35 U.S.C. § 365(a) designating at least one country other than the U.S.

☒ Priority of the following foreign applications are claimed:

Country	Application No.	Filed
Japan	11-287,390	October 7, 1999
Japan	11-326,757	November 17, 1999

Certified copy(ies): ☐ are attached.

☐ will follow.

☒ were filed in prior PCT International Application No. PCT/JP00/06915 on January 3, 2001.

7. Assignment

For continuation or divisional applications:

☒ The prior Application No. 10/089,801 is assigned of record to **ROHM Co., Ltd.**, recorded April 4, 2002 at Reel/Frame 013031/0869.

☐ An assignment of the invention to \_\_\_\_\_ and a PTO Form-1595, Recordation Form Cover Sheet, are enclosed.

For continuation-in-part applications:

☐ An assignment of the invention to \_\_\_\_\_ and a PTO Form-1595, Recordation Form Cover Sheet, are enclosed.



8. Fee Calculation (37 C.F.R. § 1.16)

CLAIMS FOR FEE CALCULATION				
	Number Filed	Number Extra	at Rate of	Basic Fee Utility \$750.00 Design \$375.00
Total Claims (37 C.F.R. § 1.16(c))	7	0	\$ 18.00 each =	+ \$0.00
Independent Claims (37 C.F.R. § 1.16(b))	1	0	\$ 84.00 each =	+ \$0.00
Multiple dependent claim(s), if any (37 C.F.R. § 1.16(d))			\$280.00	+ \$
SUB-TOTAL =				\$750.00
Reduction by ½ for filing by a small entity				- \$
TOTAL FILING FEE =				\$750.00

9. Fee Payment

- ☐ Not Enclosed. **NO FEE IS BEING PAID BY CHECK OR DEPOSIT ACCOUNT AT THIS TIME.** This application is being filed under the provisions of 37 C.F.R. § 1.53(f). Applicant(s) await notification from the Patent and Trademark Office of the time set for paying the filing fees.
- ☒ The Commissioner is hereby authorized to charge Deposit Account No. 50-0310 in the amount of **\$750.00** for the basic filing fee.

10. Small Entity Status is not claimed and

- ☐ a statement claiming small entity status is not enclosed, or
- ☐ a small entity statement was filed in the prior nonprovisional application and is still proper and desired.

11. ☒ The power of attorney in the prior application is to at least one of the registered practitioners of Morgan, Lewis & Bockius LLP included in the Customer Number provided below to prosecute this application and to transact all business in the U.S. Patent and Trademark Office connected therewith, and all correspondence shall be addressed to that Customer Number.

Please address all correspondence to Morgan, Lewis & Bockius LLP at:

**Customer Number: 009629**

12. ☐ Recognize as associate attorney \_\_\_\_\_.  
(name, address, and registration no.)
13. ☒ **PETITION FOR EXTENSION OF TIME.** If any extension of time is necessary for the filing of this application, including any extension in the prior application, Application No. 10/089,801, filed April 4, 2002, for the purpose of maintaining copendency between the prior application and the present application, and such extension has not otherwise been requested, such an extension is hereby requested, and the Commissioner is authorized to charge necessary fees for such an extension to Deposit Account No. 50-0310.
14. ☒ **EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be an **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

15. Additional papers enclosed:


- ☒ Information Disclosure Statement
- ☒ Form PTO-1449, no references included
- ☐ English Translation of Specification – as filed in the Prior Application
- ☐ Declaration of Biological Deposit
- ☐ Submission of “Sequence Listing”, computer readable copy and/or amendment pertaining thereto for biotechnology invention containing nucleotide and/or amino acid sequence.

Respectfully submitted,

**MORGAN, LEWIS & BOCKIUS LLP**

Dated: July 31, 2003

By:

  
Baldine Brunel Paul  
Registration No. P-54,369

Customer No. 09629

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